

REMARKS

Herewith, Applicant has made minor amendments to the specification and claims. No new matter has been introduced. The minor amendments to claims 17 and 18 as to the plurality of panels available for constructing the first side are supported in the originally filed specification at least at paragraph 0033 describing the group of available panels. The remainder of the minor amendments to the claims are simply for practical reasons and just refer to elements or aspects for which support has previously been identified or substantiated.

Rejection(s) based upon 35 U.S.C. 112, 1st para.

In the recent Action, claim 17 was rejected under 35 USC 112 as failing to comply with the written description requirement. Applicant has amended the Specification herewith to incorporate by reference Applicant's own earlier teachings in the form of U.S. Patent 6,591,828. Nevertheless, Applicant maintains, as argued previously, that the user-selectable aspect of the design is clearly evident and self-contained in the present Application as it was originally filed on October 10, 2003. The present Application, as filed, amply demonstrated possession of the invention by Applicant and one of a person of ordinary skill in the art would readily have recognized such attributes in Applicant's teachings. Applicant respectfully reminds that the Applicant's teachings are to be regarded as a whole and that no 'in haec verba' requirement exists, despite the Examiner's implication that "nowhere in the specification are the recitations 'user' and 'selectable' linked." Is abundantly clear that the variably constructed side designed and operated in accordance with Applicant's written description has this attribute without needing to, for example, provide an 'algorithm' of sorts by which a user would choose a configuration of panels. The user-selectable variable construction aspect is an explicit objective and the design of the components are fully disclosed in the Application to enable this aspect to one of ordinary skill.

The amendment here with to incorporate by reference the teachings of the earlier issued '828 patent should satisfy the Office as to Applicant's written description. Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 17 made on the basis of 35 U.S.C. 112 first paragraph.

Rejection(s) based on 35 U.S.C. 102

In the recent Action, claims 17-27 were rejected as being anticipated by U.S. Patent 5,713,644 to Gilbert (hereinafter simply referred to as 'Gilbert').

To summarize Applicant's rebuttal, explained in detail below, the Office has failed to demonstrate anticipation in view of Gilbert for at least the following reasons:

- The Office has failed to identify a single side or facet or portion of the apparatus of Gilbert that exhibits the claimed attributes in accordance with any of Applicant's claims. The Remarks in the Action instead either rely upon attributes that are simply not evident in Gilbert or engage in freely pointing to disparate parts of the Gilbert apparatus while talking about a single member recited in a given one of Applicant's claims.
- The Office has failed to identify where Gilbert teaches an alternative configuration or construction of a given side wherein panels forming a side can be assembled by a user in different in-use configurations.
- The Office, in some instances identified below, relies upon side panels 28 being equipped with skirt panels 36 as allegedly lending to a 'user-selectable variable construction' yet the Office seems to have completely overlooked the explicit and singular teaching that these members are **permanently welded together in a fixed position** as shown in Fig 4 and described in Gilbert (col 3: lines 8-12) as follows:

“The side panels 28 each include skirt panels 36 welded to a main panel 38, the skirt panels extending down between the support bars 14A, 14B and

slightly spaced to accommodate a spit or rotisserie while substantially completing the enclosure of the space below the grill 24.” [Emphasis added]

-The Office, in some instances identified below, simply points to a Figure and provides no explanation as to how Applicant’s recited limitations are allegedly met by the Figure alone or in connection with any accompanying textual description. This contravenes the obligation of the Office under 35 U.S.C. 132 to fairly notify Applicant of the basis of a rejection.

Claim 17

In the recent Action, claim 17 was rejected under 35 USC 102 as being anticipated by Gilbert. Applicant has carefully reviewed and considered the teachings of Gilbert.

The relevant apparatus taught by Gilbert in U.S. Patent No. 5,713,344 is constructed such that support bars 14A,14B slide to a position on vertical rods 12A,12B and then are clamped at a certain height above the ground by tightening of eye bolts 16. Support bars 14A, 14B support a grill 24. Sides 28 span between and rest directly upon (col.2: lines 57-60) support bars 14A, 14B as shown in Figure 1. Sides 28 are not depicted as ever occupying, or having any means of occupying, any other position relative to the support bars. The specification of Gilbert further explains that, to form the ‘surrounding enclosure’ 26, front and rear panels 30A and 30B rest upon, or hang from, sides 28 by virtue of downwardly rolled top edges 32A, 32B as is shown in Fig 4 and explained very clearly in col. 2, lines 61-67. Thus, the position of the front and rear panels 30A,30 B are fixed relative to the other elements in the structure and entirely dependent upon the sides for position and support. The Office has failed to show even one alternative construction involving any of sides 28 or 30. Indeed, no such teaching is present in Gilbert. Any of the sides of an enclosure implemented according to Gilbert are of but one in-use configuration when assembled.

In contrast, Applicant's claim 17 recites a designated first side having user-selectable variable configuration - an aspect that is lacking in Gilbert. The Remarks in the rejection point to skirt panels 36 as allegedly lending main panel 28 its user-selectable variable construction feature. Applicant emphatically points to the very next passage in Gilbert (col. 3: lines 8 -12) as the definitive indication that side panel 28 and skirt panels 36 are **welded into a fixed position** at the time of manufacture. Consequently, there is no ability of a user to move or remove either of those types of panels or to reposition a skirt panel 36 so as to vary any attribute of the enclosed space.

As explained in Gilbert, the skirt panels 36 are to provide enclosure extending below the grill (at always the same position) and are bifurcated to accommodate a rotisserie or spit. In Figure 1, see notches 22 along top edges of crossbars 18 to accommodate a rod as part of a rotisserie arrangement. (See Gilbert, col 2: 49-50 and col. 3:8-12)

The Office does not find in Gilbert the teachings of an alternative construction of sides 28 and 36 beyond the one configuration shown for a given embodiment.

Claim 17 was rejected in the most recent Action as being anticipated by Gilbert. Applicant's claim 17 recites, *inter alia*, a frame having a first side having "user-selectable variable configuration is constructed of at least one panel selected by a user from among a plurality of panels available for constructing the first side." The Remarks on page 3 of the recent Action refer to the sides 28, 30A and 30B as comprising a frame and further indicate that at least one side 28 is designated as having user-selectable variable construction. According to the Remarks, skirt panels 36 give main panel 28 its user-selectable variable construction feature. The Remarks point to col. 3, lines 1-7 of the reference in support of this notion.

This assertion ignores the incontrovertible truth. Immediately after this passage, the teachings of Gilbert (col 3: lines 8-12) continue as follows:

“The side panels 28 each include skirt panels 36 **welded** to a main panel 38, the skirt panels extending down between the support bars 14A, 14B and slightly spaced to accommodate a spit or rotisserie while substantially completing the enclosure of the space below the grill 24.” [Emphasis added]

The skirt panels 36 are, when manufactured, permanently welded in a fixed position to side panel 28 and are consequently unable to be detached or repositioned by an end-user. In no sense do the skirt panels 36 contribute to an ability to achieve a user-selectable variable construction. As explained by Gilbert, the purpose of skirt panels 36 is to provide a degree of enclosure below grill 24 while at the same time allowing for the passage of a rotisserie rod between crossbars 18 having central notches 22.

The Remarks in the Action go on to address the latter part of Applicant's claim 17 relating to the side having user-selectable variable construction being constructed of at least one panel selected by user from among a plurality of available panels available for constructing the side. The entirety of Gilbert's teachings, and especially the above cited passage (col 3 lines 8-12), make very clear that two skirt panels 36 are permanently welded in a fixed position to each side panel 28. Gilbert lacks any indication to the contrary, for example, that panels 36 are in any sense removable or repositionable by an end-user assembling the apparatus. Gilbert lacks any teaching that there are a plurality of user-selectable panels available for constructing the side. For example, Gilbert lacks any teaching that a side 28 or skirt panels 36 are independently selectable. Instead, as depicted in Figures 1 and 4 and at col. 3, lines 8-12 of Gilbert, the only formation of side 28 includes permanently attached skirt panels 36. Referring to Figure 4, Gilbert lacks any teaching that a user has the ability to use only panel 38 or only skirt panel 36. To the contrary, Gilbert explicitly indicates that these members are permanently welded together.

Consequently, the rejection of claim 17 as being anticipated by Gilbert is unsubstantiated. The Office has failed to demonstrate anticipation, especially by ignoring the clear and uncontradicted teaching within Gilbert that the very elements of that

apparatus that the Office contends are capable of variable construction are instead permanently attached to one another in a fixed position. The Office fails to explain with particularity how a main panel 38 and skirt panels 36 are believed to interact in some fashion as to meet the recited aspect of user-selectable variable construction. Applicant's claim 17 is differentiated from Gilbert at least by virtue of reciting that a designated first side having user-selectable variable construction is constructed of at least one panel selected by user from among a plurality of available panels for constructing the first side. There simply is no corresponding side in Gilbert that exhibits this quality. Even side 28, comprising a main panel 38 with skirt panels 36 permanently attached, is consistently positioned in one place according to the Gilbert teachings. Accordingly, claim 17 is not anticipated by Gilbert. Applicant respectfully requests withdrawal of this rejection and allowance of claim 17 on these grounds.

Claim 18

To address dependent claim 18, the Remarks on page 4 of the recent Action contend that Gilbert discloses the claimed feature where the side having user-selectable variable construction is constructed with fewer than all of the available panels 36 that are able to be used on a single side concurrently and that the unused panels are entirely excluded from the construction of the side. As described above, according to the teachings of Gilbert, each side 28 comprises a main panel 38 and two skirt panels 36 which are welded in together. The user has no ability to vary the number of skirt panels 36 employed in the assembly of the side. The sentence in the Remarks continues by expressing that the claimed aspect that any unused panels are entirely excluded from the construction of the side having user-selectable variable construction is construed to be anticipated by the disclosed top side panel 30 or 40 because a top panel would have to be excluded such as a user would have access to a grill top. Here, very abruptly, the Remarks begin referring to an entirely different facet of the apparatus of Gilbert rather than the particular first side established in independent claim 17. Applicant's claim 18 makes it clear that any unused panels (from among all of the panels available for constructing the side) are entirely excluded from the construction of the first side,

referring to the designated first side identified in the first element of claim 17. The top panel 30 or 40 of Gilbert does not qualify as one of the available panels that are able to be used to construct the designated side, and especially not as one of the available panels that can be used on a single side concurrently. In contrast, Applicant teaches a set of panels that may be used interchangeably or in combination along a single designated side. In addition to the distinguishing limitations highlighted for claim 17, claim 18 is further distinguished from Gilbert in that Gilbert fails to anticipate constructing a side with fewer than all of the available panels that would be otherwise available to be used on that side concurrently and, at the user's discretion, optionally excluding certain panels in the construction of the designated side. Accordingly, claim 18 is not anticipated by Gilbert. Applicant respectfully request reconsideration and withdrawal of the rejection of claim 18 made on the basis of the Gilbert teachings.

Claim 19

Dependent claim 19 appears to be addressed briefly in the Remarks on page four and continuation of the sentence relating to claim 18. The Remarks state "...wherein the panel selected by the user supports a transverse member 18 for suspending an item above the heat source within the frame...". By this point in the Remarks, the Office has tried to flexibly map Applicant's recited designated first side to two different areas of the apparatus according to Gilbert, a side 28 and a top 30. Taking either of these interpretations and applying them to this remark about claim 19 results in a broken argument. Careful review of the structure and operation of the Gilbert apparatus will reveal that neither side 28 nor top 30 in any way support a transverse member suspending an item above the heat source within the frame. In Gilbert, as described at the outset of this Response, support bars 14A, 14B support grill 24 and also support sides 28 and, indirectly, other components of the structure. Surrounding enclosure 26 is assembled and placed to rest upon support bars independently of grill 24. (See col. 2: 39-40) Conversely, grill 24 is supported upon support bars even before surrounding enclosure 26 is assembled. Gilbert lacks any teaching that any of the sides of the surrounding enclosure 26 in any way engage or support grill 24 keep it suspended above the heat

source. That role is performed instead by support bars 14A, 14B. (col. 2: 39-40). Gilbert in fact lacks any 'panel' supporting a grill or other transverse member 18 for suspending an item above the heat source within the frame, much less a particular panel that may be used for forming a variably constructed first side as set forth in claim 17 from which claim 19 depends. The teachings of Gilbert do not anticipate claim 19. Applicant respectfully requests reconsideration and allowance of claim 19 at least on these grounds.

Claim 20

Claim 20 was similarly rejected in the recent Action (as best as Applicant can discern) by continuation of the same sentence in the Remarks, with attention drawn to flanges 34 as anticipating the claimed attached installation because "that reference character acts as a flange when used in conjunction with panel 16 and panel 30." Applicant believes Examiner is referring to, for example, Figure 4 of Gilbert where flanges 34 are shown on either end of side panel 28 as turning towards other panels 30A and 30B so that the latter may hang from those flanges as shown. The Remarks are somewhat confusing because reference numeral 16 of Gilbert is not a panel but rather an eye bolt, so it is not clear how reference numeral 16 is used in conjunction with panel 30. Nevertheless, Applicant has carefully considered the reference for all that might teach in this regard and maintains that claim 20, at least by virtue of its dependence from claim 17, is allowable for the reasons mentioned above in connection with claim 17. Applicant respectfully request can reconsideration and allowance of claim 20.

Claim 21

Claim 21 appears to be addressed in the Remarks the recent Action towards the end of page 4. Apparently, the Office contends that the same panel referred to earlier in the paragraph (whether panel 36 or top panel 30) attaches to at least two different components, namely support bars 14A, 14B in Gilbert in anticipation of claim 21. Applicant observes that the top panel 30 or 40 never engages support bars 14A or 14B and that, in the alternative interpretation but forth by the Office, a skirt panel 36 never

attaches to both support bars 14A and 14B. At best, a side panel 28 rests upon support bars 14A and 14B without being attached thereto. Claim 21 is not anticipated by any equivalent in Gilbert. Accordingly, Applicant respectfully request reconsideration and allowance of claim 21 at least for these reason and by virtue of its dependence from claim 17 which is also believed to be allowable as explained above.

Claim 22

Claim 22 is rejected as described in the Office's Remarks at the bottom of page 4 and continuing on page 5. In considering Applicant's recitation of "wherein a position and which the panel selected by the user is attached to the remainder of the frame is selectable by the user from among more than one possible such position of attachment", the Remarks state that "this statement of intended use is anticipated by the skirt panels 36 because that teaching meets the more than one possible position of attachment to the main panel 38." Here again the Office totally ignores the clear and irrefutable teaching in Gilbert (col 3:8-12) that skirt panels 36 are permanently welded in fixed position to the main panel 38. If anything, Gilbert teaches away from the attribute of more than one possible position of attachment of skirt panels to the main panel. This renders the sparse explanation offered by the Office wholly untenable. The Office has failed to point to any other aspect of the Gilbert teachings in support of anticipating the recited limitation or in contradiction to this passage found at col.3, lines 8-12 of Gilbert. Claim 22 is not anticipated by Gilbert. Applicant respectfully request reconsideration allowance of claim 22 on at least these grounds and by virtue of its dependency from claim 17 which is also believed to be allowable for reasons set forth above.

Claim 23

Claim 23, which depends from claim 22, was addressed on page 5 of the Remarks the recent Action. Beyond merely reciting Applicant's claim, the full description set forth by the Office in explaining the basis of the rejection of claim 23 is "...as best shown in Figure 1...". Figure 1 of Gilbert shows a unit completely assembled in accordance with

the singular configuration taught for that embodiment. Figure 1 of Gilbert, even coupled with all of the text of the specification, is utterly lacking any indication of a variable position of attachment of the panel much less any manner in which doing so would result in changing at least one upper proportion of side is substantially enclosed, which portion of the side is substantially enclosed by the panel, or a height in which a transverse member supported by at least one panel is support within the frame. As explained in connection with claim 22 the teachings of Gilbert lack any variation in the position of attachment of a panel, especially the manner which skirt panels 36 are attached to main panel 38. To the contrary, Gilbert explains that these members are welded together (col.3: 8-12). Consequently, there is no facility in Gilbert such that changing the position of attachment of a panel changes a proportion of the side is substantially enclosed or which portion of the side is substantially enclosed by a panel. Furthermore, none of the panels depicted in Gilbert participate in supporting a transverse member such as grill 24. This was explained above in discussing claim 19. The contention by the Office that Gilbert anticipates claim 23 is unsubstantiable and finds no support from the short six-word explanation offered in the rejection. The Office has failed establish by any measure of burden that claim 23 is anticipated by Gilbert. Applicant respectfully requests reconsideration and allowance of claim 23.

Claim 24

In the case of dependent claim 24, Applicant recites limitations as to the alternatives of using a first quantity or a second quantity of panels in constructing the designated first side. The Office's Remarks in the rejection at first refer to panels 30A, 30B of Gilbert as corresponding to the first quantity of panels and then inexplicably turn to a disparate portion of the structure, skirt panels 36, as being the alternative second quantity of panels.

This argument fails for two reasons. First of all, the Office is pointing to elements of two different sides rather than, as Applicant claims, elements that may be used in the alternative to form the same designated first side. The front and rear panels

30A and 30B are exactly that - forming the 'front' and 'rear' faces of the surrounding enclosure 26. Skirt panels 36 are used in a completely separate portion of the structure at the bottom of sides 28. Contrary to the position suggested by the Office, there is no teaching in Gilbert to interchange panels 30A,B with skirt panels 36 and it appears that this would not even be possible to do so in keeping with the mechanical operating principles of the Gilbert assembly. The Office fails to identify, and Gilbert fails to teach or suggest, a single designated side, in accordance with Applicant's claim, that may be constructed using a variable quantity of panels selected from a plurality of panels that can be used to assemble the designated side. Secondly, skirt panels 36 are permanently welded in fixed position to main panels 38 and so are of fixed quantity and position whenever the unit is assembled. Skirt panels 36 do not lend to any ability for a user to select construction using a first quantity or a second quantity of these to vary any attribute of the enclosure.

Beyond these two key points, the Remarks relating to claim 24 further err by stating that "...a height at which a transverse member supported by one of the panels is support within the frame 50..." This is wrong. In Gilbert, reference numeral 50 refers to a support element in accordance with an entirely separate embodiment shown in Figure 5, one that is markedly devoid of any panels and any surrounding enclosure. Even assuming that this was yet another typographical error in the Remarks and that the intention was to refer to surrounding enclosure 26, it has been explained earlier that none of the panel members of surrounding enclosure 26 in fact support grill 24 in any fashion. Consequently, changing a quantity of the identified panels (if it were possible in Gilbert) would have no effect on the height at which the grill would be supported.

Claim 24 is not anticipated by Gilbert. Applicant urges reconsideration and allowance of claim 24 for these reasons and in view of its dependence from claim 17.

Claim 25

Claim 25 was addressed in the Remarks merely by general reference to Figure 1 of Gilbert. The Office's minimal Remarks in rejecting claim 25 failed to meet any burden of proof and fall far short of the statutory requirement under 35 USC 132 as to notifying Applicant of reasons for rejection of a claim. Applicant has carefully reviewed the reference for potential applicability to this claim. None of the figures or description of Gilbert provide for, among a plurality of panels available for constructing a designated first side, having the available panels exhibit different heights when applied to the frame and wherein the designated first side is selectively constructed by user to include a panel of specific height by which the user adjusts at least one of: how much of the first side of the user-selectable variable construction is substantially enclosed or at what height a transverse member is supported within the frame. The rejection of claim 25 as being anticipated by Gilbert is unsubstantiated. Applicant respectfully requests reconsideration and allowance of claim 25.

Claim 26

Claim 26 recites limitations generally relating to an ability to employ first and second panels in constructing the designated side and to usefully alter which panel is placed above the other "wherein, in attaching the first and second panels to the remainder of the frame, the first panel is placed above the second panel to support the transverse member and a first height and the first panel is placed below the second panel to support the transverse member at a second height different from the first height." To identify an aspect of Gilbert that allegedly anticipates these limitations, the Office points to col. 3, lines 30-49. However, this passage of Gilbert refers to a second embodiment according to Gilbert that is completely devoid of any surrounding enclosure and of any panels constituting same. See for example col. 3, lines 30-33 of Gilbert:

"FIGS. 5 and 6 show a second, simpler embodiment, in which only a pair of steel rods and 46 are driven into the ground spaced apart so as to be able to receive a cooking grill 48 between them."

The passage that the Office relies upon for support refers to an embodiment lacking any panels whatsoever, much less panels having different heights that may be used to construct a designated first side in accordance with Applicant's teachings. Applicant has carefully reviewed the Gilbert reference and all of the Remarks in the recent action and finds that Gilbert completely lacks any analogous teaching and that none of the Office's choices of panels in sides in the course of making its arguments exhibit these features. Gilbert does not anticipate claim 26 and the Office fails to provide any tenable argument to the contrary. Applicant respectfully requests reconsideration and allowance of claim 26.

Claim 27

Finally as to claim 27, the Office turns to different set of sides, sides 30A and 30B, as being the designated side having user-selectable variable construction despite mapping the same recited feature to side 28 in discussing claim 17 from which claim 27 depends. This results in a tortured interpretation where the same recited element is simultaneously mapped to two entirely different portions of the unit taught by the Gilbert reference. Overlooking this contradiction for the moment, the Remarks continue by indicating that both panels 30A and 30B are concurrently attached the remainder of the frame 50. This explanation is in error at least because reference 50 of Gilbert refers to a support element in accordance with a second embodiment shown in Figure 5 - an embodiment lacking any panels or surrounding enclosure whatsoever. Even assuming that this is a typographical error and that the Examiner intended to refer to surrounding enclosure 26, none of the components of surrounding enclosure 26 according to Gilbert support the transverse member in any manner such that, as recited, "the transverse member is user-selectable to either be directly supported by the first panel in accordance with a first user-selectable configuration or to be directly supported by the second panel in accordance with a second user-selectable configuration." Gilbert lacks any variation in configuration that affects which of two alternative panels are capable of supporting a transverse member. Gilbert fails to anticipate claim 27 and the Office, even overlooking

the significant flaws in its arguments, fails to provide any cohesive argument to the contrary.

Remarks regarding “Christen anticipation”

On page 6 of the most recent Action, the Remarks indicate that the “Examiner has corrected any minor typographical errors that may have confused Applicant.” These Remarks in the recent Action attempt to trivialize the overarching significance of the error and the resulting disadvantage to Applicant to effectively prosecuting the Application. The supposedly ‘minor’ errors principally involve the Office mistakenly identifying, solely and consistently throughout two written Actions over at least a six month period, a single reference by name and patent number that was entirely different than the actual reference upon which the rejecting Remarks were based. Applicant was left to ponder the Office’s Remarks in a completely *non sequitur* context, wherein reference numerals were missing or referred to incompatible parts, where passages cited in the Remarks did not even exist in the reference and where the Office’s explanations of the workings taught by the reference were inapplicable.

It was not until a corrected Action, mailed from the Office on August 5th, adequately set forth a correct reference (Gilbert, ‘344) and articulated the grounds of rejection based upon this reference that Applicant became suitably informed of the Office’s position - a position that should have been conveyed in the Action issued from the Office on December 3, 2008.

Over the course of two written Actions and one telephonic interview, the Office was unable to correctly identify the Gilbert reference nor able to articulate in any understandable fashion a tenable grounds for rejection on the basis of prior art. As the record reflects, a telephonic interview was conducted on February 20, 2009 during which the Examiner could not reconcile the Christen patent versus the Remarks and cited portions of the reference and agreed to review the matter and issue a corrected non-final Office Action. Applicant was understandably surprised when, contrary to the agreement

during interview, the next Action was instead made final and maintained the Christen reference as the basis for rejection and entirely duplicated the admittedly flawed passages from the previous Action. Given the extraordinary circumstances and the lack of petitions as an avenue to address the finality of the rejection, Applicant's representative contacted a supervisory examiner to seek advise on a next course of action, specifically whether a call to the Examiner would be useful or appropriate. Rather than contacting Applicant's representative with an answer, the Office promptly issued a subsequent non-final Office Action containing rejections based upon the Gilbert reference.

Remarks regarding Applicant's mention of Slattery

As to the mention of Slattery in the Remarks, Applicant had made clear in a prior response that Slattery was not formally relied upon in the rejection. In trying to decipher the rejection on the basis of Christen, it was merely conjectured whether Christen was perhaps being relied upon for similar aspects found in the Slattery reference which was considered during an appeal earlier in the prosecution. In view of the present rejection based solely upon Gilbert, these points are moot.

CONCLUSION

Applicant respectfully requests that the Examiner reconsider the outstanding rejections and that they be withdrawn. Applicant believes that a full and complete response has been made to the recent Office Action, as such, the present application should be considered for allowance. If the Examiner believes for any reason that personal communication will expedite prosecution of this Application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of these Remarks is respectfully requested.

Respectfully submitted,



Frank McKiel, Jr.

Reg. No. 43,792

Date: Oct 5, 2009

Correspondence address:
5880 Derby Rock Loop
Manitou Springs, CO 80829
(719) 685-4700